

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6175 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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UMAKANT RAJARAM CHAUHAN

Versus

COMMISSIONER OF POLICE

Appearance:

MR BM GUPTA for Petitioner

SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

By way of this special civil application the petitioner has challenged the order of detention dated

30.6.1996 passed by the Police Commissioner, Ahmedabad City, under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as the PASA Act).

2 It appears from the grounds of detention that two cases have been registered against the petitioner for the offence under IPC. The learned Assistant Government Pleader has pointed out that on 28.5.1996 the petitioner alleged to have been demanded Rs.200 from a person and when he refused to pay, he alleged to have said that how he dare to refuse to pay to him who is a person of Babu Satyambhaya. It is pointed out that Babu Satyambhaya is a notorious person. It is not in dispute that Babu Satyambhaya is in jail since 1984 as he was involved in triple murder. However, no case with respect to said incident has been registered.

3 Mr Gupta, learned counsel appearing for the petitioner submits that the petitioner has falsely been detained mala fide with a view to prevent him from canvassing actively for his election and the petitioner has also preferred one Special Civil Application No.571 of 1995 before this Court in that regard.

4 Considering the facts of the case, in my view, the petitioner cannot be branded as a dangerous person within the meaning of section 2(c) of the PASA Act. The single act pointed out by the learned Asst. Government Pleader is not sufficient to infer that the petitioner is a dangerous person. Said Babu Satyambhaya is said to be in jail since 1984. No case has also been registered against the present petitioner so far as the said incident is concerned. It is further submitted that some more cases under IPC have been registered against the petitioner and the allegations in none of the aforesaid cases are such on the basis of which the petitioner can be said to be a dangerous person. Thus, in my view, the order of detention of the petitioner is illegal and the same deserves to be quashed and set aside.

5 In the result, this special civil application is allowed. The order of detention dated 30.6.1996 is quashed and set aside. It is directed that the petitioner shall be released forthwith if not required in any other case. Rule is made

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